

State of Utah
Administrative Rule Analysis
Revised December 2019

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ____; Amendment <u> X </u> ; Repeal ____; Repeal and Reenact ____		
Title No. - Rule No. - Section No.		
Utah Admin. Code Ref (R no.):	R307-410-4	Filing No. (Office Use Only)
Changed to Admin. Code Ref. (R no.):	R	

Agency Information

1. Department:	Department of Environmental Quality	
Agency:	Division of Air Quality	
Room no.:		
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144820	
City, state, zip:	Salt Lake City, UT 84116-4820	
Contact person(s):		
Name:	Phone:	Email:
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
Permits: Emissions Impact Analysis. Modeling of Criteria Pollutant Impacts in Attainment Areas.
3. Purpose of the new rule or reason for the change (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?):
The amendment to R307-410-4 is being done in anticipation of redesignation of attainment for PM _{2.5} nonattainment areas. The amendment adds a PM _{2.5} modeling threshold for attainment areas. When an area is designated attainment, modeling is an important part of the New Source Review (NSR) program to ensure that a modification or new source will not cause or contribute to a violation of the NAAQS. The Division of Air Quality wants to ensure that the appropriate requirements are in place for evaluating the impact of a new source or modification after the redesignation of the PM _{2.5} nonattainment areas.
4. Summary of the new rule or change:
The amendment adds PM _{2.5} to the modeling thresholds for attainment areas. The PM _{2.5} modeling threshold has been added to Table 1 in section R307-410-4. The proposed modeling threshold of 10 tons per year (tpy) is the PM _{2.5} significant emission rate (SER) for direct emissions of primary PM _{2.5} established by EPA in 40 CFR 51.166(b)(23).
A public hearing is set for Wednesday, July 2, 2020. Further details may be found below. The hearing will be cancelled should no request for one be made by Tuesday, July 1, 2020, at 5:00PM MT. The final status of the public hearing will be posted on Tuesday, July 1, after 5:00PM MT. The status of the public hearing may be checked at the following website location under the corresponding rule.
https://deq.utah.gov/public-notices-archive/air-quality-rule-plan-changes-open-public-comment

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This amendment will not result in any costs or savings to the state budget, as the amendment to the rule is covered in the existing permitting process.

B) Local governments:

The amendment will not result in any costs or savings to local governments as this amendment does not apply to local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):

Small businesses may have costs due to the amendment to R307-410-4. The amendment adds PM_{2.5} to the modeling threshold for attainment areas. If a small business applies for a permit for a new approval order or a modification to an existing approval order that meets or exceeds the PM_{2.5} threshold of 10 tpy, the small business would then have to conduct modeling for PM_{2.5}. In the past two years there were one to two permit actions per year that would have been impacted by the proposed PM_{2.5} threshold. The anticipated cost of modeling is anywhere from \$5,000 to \$10,000. For a conservative estimate, the financial impact is based on two permit actions per year that exceed the PM_{2.5} threshold and a cost of \$10,000 for a modeling impact analysis, for a total of \$20,000 per year. There is no definite answer as to how many small businesses this amendment would impact in the future, but the table below shows the financial impact based on recent permit actions.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

Non-small businesses may have costs due to the amendment to R307-410-4. The amendment adds PM_{2.5} to the modeling threshold for attainment areas. If a non-small business applies for a permit for a new approval order or a modification to an existing approval order that meets or exceeds the PM_{2.5} threshold of 10 tpy, the non-small business would then have to conduct modeling for PM_{2.5}. In the past two years there were one to two permit actions per year that would have been impacted by the proposed PM_{2.5} threshold. The anticipated cost of modeling is anywhere from \$5,000 to \$10,000. For a conservative estimate, the financial impact is based on two permit actions per year that exceed the PM_{2.5} threshold and a cost of \$10,000 for a modeling impact analysis, for a total of \$20,000 per year. There is no definite answer as to how many non-small businesses this amendment would impact in the future, but the table below shows the financial impact based on recent permit actions.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The amendment will not result in any costs or savings to persons other than small businesses, non-small businesses, state, or local government entities because this rule would not apply to those persons.

F) Compliance costs for affected persons:

There are no compliance costs for affected persons due to the rule amendment because this rule amendment is not applicable to other persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2020	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$20,000	\$20,000	\$20,000
Non-Small Businesses	\$20,000	\$20,000	\$20,000
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$40,000	\$40,000	\$40,000
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	-\$40,000	-\$40,000	-\$40,000

H) Department head approval of regulatory impact analysis:

The head of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

The amendments made to R307-410-4 could have a fiscal impact on small and non-small businesses, but the impact is anticipated to be to few businesses overall. Many new approval orders or modifications to existing approval orders for non-small businesses exceeding this proposed PM_{2.5} threshold will likely also trigger modeling for other pollutants in Table 1 of R307-410-4 and PM_{2.5} would be added to the already required modeling analyses. The number of businesses this will fiscally impact is

anticipated to be low.

B) Name and title of department head commenting on the fiscal impacts:

L. Scott Baird, Executive Director of the Department of Environmental Quality

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

19-2-104

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	First Incorporation
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	Second Incorporation
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until (mm/dd/yyyy):

07/02/2020

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
07/02/2020	09:00AM MST	195 N 1950 W Multi Agency State Office Building Fourth Floor, DAQ Salt Lake City, UT 84116 For remote connection: Conference Line: 1-877-820-7831 Passcode: 915298#

10. This rule change MAY become effective on (mm/dd/yyyy): 07/08/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the

rulemaking process over.

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

Agency head or designee, and title:	Bryce Bird, Division of Air Quality Director	Date (mm/dd/yyyy):	04/21/2020
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R307. Environmental Quality, Air Quality.**R307-410. Permits: Emissions Impact Analysis.****R307-410-4. Modeling of Criteria Pollutant Impacts in Attainment Areas.**

Prior to receiving an approval order under R307-401, a new source in an attainment area with a total controlled emission rate per pollutant greater than or equal to amounts specified in Table 1, or a modification to an existing source located in an attainment area which increases the total controlled emission rate per pollutant of the source in an amount greater than or equal to those specified in Table 1, shall conduct air quality modeling, as identified in Section R307-410-3, to estimate the impact of the new or modified source on air quality unless previously performed air quality modeling for the source indicates that the addition of the proposed emissions increase would not violate a National Ambient Air Quality Standard, as determined by the director.

TABLE 1

POLLUTANT	EMISSIONS
sulfur dioxide	40 tons per year
oxides of nitrogen	40 tons per year
PM10 - fugitive emissions and fugitive dust	5 tons per year
PM10 - non-fugitive emissions [or non-fugitive dust]	15 tons per year
<u>PM2.5 - combined non-fugitive emissions, fugitive dust, and fugitive emissions</u>	<u>10 tons per year</u>
carbon monoxide	100 tons per year
lead	0.6 tons per year

KEY: air pollution, modeling, hazardous air pollutant, stack height**Date of Enactment or Last Substantive Amendment: November 25, 2019****Notice of Continuation: May 15, 2017****Authorizing, and Implemented or Interpreted Law: 19-2-104**